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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 JOHN MENDOZA,

12 Plaintiff,

13 v.

14 G. MATTESON, et al.,

15 Defendants.  
16

No. 2:22-CV-1136-KJM-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C.  
18 § 1983. The matter was referred to a United States Magistrate Judge as provided by Eastern  
19 District of California local rules.

20 On June 13, 2025, the Magistrate Judge filed findings and recommendations, which were  
21 served on the parties, and which contained notice that the parties may file objections within the  
22 time specified therein. No objections to the findings and recommendations have been filed.

23 The court presumes that any findings of fact are correct. *See Orand v. United States*, 602  
24 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.  
25 *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the  
26 magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”).  
27 Having reviewed the file, the court finds the findings and recommendations to be supported by  
28 the record and by the proper analysis.

1 The Court has reviewed the file and finds the findings and recommendations to be  
2 supported by the record and the Magistrate Judge's analysis.

3 Accordingly, IT IS HEREBY ORDERED as follows:

4 1. The findings and recommendations filed June 13, 2025, ECF No. 26, are adopted  
5 in full.

6 2. Defendants' motion to sever and dismiss misjoined claims and parties, ECF  
7 No. 20, is granted in part and denied in part, as set forth herein:

- 8 • Defendants' motion is denied to the extent they request the Court dismiss  
9 misjoined claims and parties.
- 10 • Defendants' motion to sever is granted to the extent they request that  
11 Plaintiff's First Amendment claims against Defendant DeBerry-Thornton be  
12 severed from Plaintiff's Eighth Amendment claims.
  - 13 ○ Defendant DeBerry-Thornton shall file an answer in this case as to  
14 Plaintiff's First Amendment claims, within thirty (30) days of the filing  
15 date of this order.
  - 16 ○ Plaintiff's remaining Eighth Amendment claims against Defendants  
17 Muhammad, Stewart, Peterson, DeBerry-Thornton, Khim, Tyler and  
18 Matteson are dismissed, but may proceed as a new, separate action.  
19 Plaintiff shall file a complaint as a new separate action and a notice of  
20 related cases under Local Rule 123.
  - 21 ○ Upon service those listed Defendants are directed to file a responsive  
22 pleading within thirty (30) days.

23 3. The Clerk of the Court is directed to update the docket for the instant case to  
24 reflect that all defendants other than DeBerry-Thornton are terminated as parties.

25 4. The matter is referred back to the assigned Magistrate Judge for further  
26 proceedings.

27 DATED: August 12, 2025.

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UNITED STATES DISTRICT JUDGE